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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 April 1997, at 3 p.m.

Chairman: Mr. SOMOL (Czech Republic)

CONTENTS

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (continued)

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (continued)

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (continued)

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CONTENTS (continued)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS (continued)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (continued)

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The meeting was called to order at 3.30 p.m.

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 14) (continued) (E/CN.4/1997/L.20 and L.35)

Proposed amendments to draft resolution E/CN.4/1997/L.20 on the question of the death penalty (E/CN.4/1997/L.35)

1. The CHAIRMAN said that, as previously requested, a roll-call vote would be taken on each paragraph of the proposed amendments.

Paragraph 1

2. Chile, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Sri Lanka, Uganda, United States of America, Zimbabwe.

Against: Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, South Africa, Ukraine, Uruguay.

Abstaining: Angola, Benin, Cape Verde, El Salvador, Ethiopia, Gabon, Guinea, Madagascar, Russian Federation, United Kingdom of Great Britain and Northern Ireland, Zaire.

3. The amendment contained in paragraph 1 of E/CN.4/1997/L.35 was rejected by 24 votes to 17, with 11 abstentions.

Paragraph 2

4. Zimbabwe, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Benin, Bhutan, China, Cuba, Egypt, Guinea, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Sri Lanka, Uganda, United States of America, Zimbabwe.

Against: Angola, Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining: El Salvador, Ethiopia, Gabon, Madagascar, Zaire.

5. The amendment contained in paragraph 2 of E/CN.4/1997/L.35 was rejected by 27 votes to 19, with 5 abstentions.

Paragraph 3

6. Guinea, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Russian Federation, Sri Lanka, Uganda, Zimbabwe.

Against: Angola, Argentina, Austria, Belarus, Brazil, Canada, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mozambique, Nepal, Netherlands, Nicaragua, South Africa, Ukraine, Uruguay.

Abstaining: Benin, Bulgaria, Cape Verde, El Salvador, Ethiopia, Gabon, Guinea, Madagascar, Mexico, United Kingdom of Great Britain and Northern Ireland, United States of America, Zaire.

7. The amendment contained in paragraph 3 of E/CN.4/1997/L.35 was rejected by 23 votes to 17, with 12 abstentions.

Paragraph 4

8. Zimbabwe, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Sri Lanka, Zimbabwe.

Against: Angola, Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, Russian Federation, South Africa, Ukraine, Uruguay.

Abstaining: Benin, El Salvador, Ethiopia, Gabon, Guinea, Madagascar, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Zaire.

9. The amendment contained in paragraph 4 of E/CN.4/1997/L.35 was rejected by 27 votes to 15, with 10 abstentions.

Paragraph 5

10. Ukraine, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Zimbabwe.

Against: Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, Russian Federation, South Africa, Ukraine, Uruguay.

Abstaining: Angola, Benin, El Salvador, Ethiopia, Gabon, Guinea, Madagascar, Sri Lanka, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Zaire.

11. The amendment contained in paragraph 5 of E/CN.4/1997/L.35 was rejected by 26 votes to 14, with 12 abstentions.

Paragraph 6

12. China, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Zimbabwe.

Against: Angola, Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Nepal, Netherlands, Nicaragua, Russian Federation, South Africa, Ukraine, Uruguay.

Abstaining: Benin, Cape Verde, El Salvador, Ethiopia, Gabon, Guinea, India, Madagascar, Mozambique, Sri Lanka, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Zaire.

13. The amendment contained in paragraph 6 of E/CN.4/1997/L.35 was rejected by 25 votes to 13, with 14 abstentions.

Paragraph 7

14. Nicaragua, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea.

Against: Angola, Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, Russian Federation, South Africa, Ukraine, Uruguay.

Abstaining: Benin, El Salvador, Ethiopia, Gabon, Guinea, Madagascar, Sri Lanka, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Zaire, Zimbabwe.

15. The amendment contained in paragraph 7 of E/CN.4/1997/L.35 was rejected by 27 votes to 13, with 12 abstentions.

Draft resolution on the question of the death penalty (E/CN.4/1997/L.20)

16. Mr. TUN HUSSEIN (Malaysia), speaking in explanation of vote before the voting, said that his delegation would vote against the draft resolution. The issue at stake was not whether it supported capital punishment or not, but whether Governments had the right to make their own decisions on the matter. The death penalty corresponded to a deep human impulse to punish severely the most serious crimes; it was not in itself an abuse of human rights and there was no consensus that it contravened international law. Furthermore, it would be improper for a subsidiary body to usurp the authority of the General Assembly, which had considered the matter only two years previously.

17. At the request of the representative of Malaysia, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.20.

18. Cape Verde, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, France, Germany, Ireland, Italy, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, Russian Federation, South Africa, Ukraine, Uruguay.

Against: Algeria, Bangladesh, Bhutan, China, Egypt, Indonesia, Japan, Malaysia, Pakistan, Republic of Korea, United States of America.

Abstaining: Benin, Cuba, El Salvador, Ethiopia, Gabon, Guinea, India, Madagascar, Philippines, Sri Lanka, Uganda, United Kingdom of Great Britain and Northern Ireland, Zaire, Zimbabwe.

19. Draft resolution E/CN.4/1997/L.20 was adopted by 27 votes to 11, with 14 abstentions.

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 15) (continued) (E/CN.4/1997/L.17)

Draft decision on effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (E/CN.4/1997/L.17)

20. Ms. PATTERSON (Canada), introducing the draft decision, said that an asterisk indicating observer status had been erroneously placed beside the name of her country and should be removed. The decision was essentially a procedural one by which the Commission invited the Secretary-General to solicit the views of Governments and other interested parties on the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system and decided to resume consideration of all relevant reports at its fifty-fourth session.

21. Her delegation welcomed the submission of the independent expert's final report which, together with the Secretary-General's comparative analytical study of the six principal human rights treaties in force, would provide a solid basis for the Commission to give renewed attention to that important matter at its fifty-fourth session. That was precisely the objective pursued through the submission of the draft decision, which her delegation hoped would be adopted without a vote.

22. Mrs. KLEIN (Secretary of the Commission) said that the delegations of India, the Republic of Korea, Ukraine and Uruguay and the observer for Romania had become sponsors of the draft decision.

23. The draft decision was adopted without a vote.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 11) (continued) (E/CN.4/1997/L.14, L.29 and L.30)

Draft resolution on violence against women migrant workers (E/CN.4/1997/L.14)

24. Ms. BAUTISTA (Philippines), introducing the draft resolution on behalf of its sponsors, said migrant workers deserved better treatment than they received, not only because they contributed productively to their host economies at the expense of great personal sacrifice, but simply because they were human beings. Their spirit of enterprise and resolve to conquer economic difficulties in strange lands and under different socio-cultural conditions helped developing economies move forward on the path to progress. Women migrant workers were the most vulnerable group of overseas labourers. The adoption of the draft resolution before the Commission would show that the family of nations had heard their cries for help and better treatment.

25. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Bangladesh and Madagascar and the observers for Belgium and Portugal had become sponsors of the draft resolution.

26. The draft resolution was adopted without a vote.

Draft resolution on the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (E/CN.4/1997/L.29)

27. Mr. de ICAZA (Mexico), introducing the draft resolution on behalf of its sponsors, said that 13 ratifications or accessions were required for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families to enter into force. So far none of the major countries of destination had signed or ratified the Convention. It was important to promote tolerance between migrant workers and the societies in which they resided so as to eliminate the growing manifestations of racism to which they were subjected. He hoped, therefore, that the draft resolution would be adopted by consensus.

28. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Bangladesh and Madagascar and the observers for Peru and Portugal had become sponsors of the draft resolution.

29. The draft resolution was adopted without a vote.

Draft resolution on migrants and human rights (E/CN.4/1997/L.30)

30. Mr. de ICAZA (Mexico), introducing the draft resolution on behalf of its sponsors, said that the number of migrants was steadily growing: in some countries, they constituted as much as a tenth of the population and, according to the International Organization for Migration (IOM), they accounted for 4 per cent of the population worldwide. Those figures were continuing to grow because of greater ease of travel, higher expectations sparked by the information revolution and disparities in income and general standards of living between countries.

31. Though migrants brought considerable benefits to the economies in which they lived, there was an alarming re-emergence of xenophobia and open or covert manifestations of racism. Migrants, who were especially vulnerable because they were far from their countries of origin and were facing linguistic and cultural difficulties, were increasingly subjected to degrading treatment and even to massive violations of their fundamental human rights.

32. In some countries, xenophobia was fuelled by attributing to migrants the real or imagined difficulties of local populations: in some cases migrants had even been denied the most fundamental services, such as health, education and the provision of food. Detention camps were proliferating and immigration policies adopted whose implementation fostered hostility to migrants. No one disputed the sovereign right of States to determine their own immigration policies, but such laws must respect human dignity and fundamental human rights.

33. The Commission should give special attention to the human rights of migrants and a specific thematic mechanism should be set up to furnish a comprehensive and far-reaching study of the phenomenon of international migration in order to identify its characteristics, structural causes and side-effects and thereby ensure the effective protection of the human rights of migrants.

34. After intensive consultations with the various geographical groupings and interested delegations, the sponsors had decided to make a number of changes to the text of the draft resolution.

35. The second preambular paragraph would be replaced by two separate paragraphs, to read:

> "Affirming that every State party to the International Covenant on Civil and Political Rights must ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in that Covenant,
>
> Reaffirming that every State party to the International Covenant on Economic, Social and Cultural Rights must undertake to guarantee that the rights enunciated in that Covenant will be exercised without discrimination of any kind, including national origin,".

36. Paragraph 1 would be replaced by:

> "1. Acknowledges that the principles and standards embodied in the Universal Declaration of Human Rights apply to everyone, including migrants,"

37. Paragraph 2 would be replaced by:

> "2. Requests States, in conformity with their respective constitutional systems, the Universal Declaration of Human Rights, and the international instruments to which they are party, which may include the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and other applicable international instruments of human rights, effectively to promote and protect the human rights of all migrants;"

38. In the chapeau to paragraph 3, the words "for a period of 10 working days" would be replaced by "for two periods of five days", and the words "within the approved overall budget level for the current biennium" inserted between the words "a working group" and "consisting of".

39. Subparagraph (a) would be replaced by:

> "(a) Gather all relevant information from Governments, non-governmental organizations and any other relevant sources on the obstacles existing for the effective and full protection of the human rights of migrants; and".

40. Subparagraphs (b) and (c) would be deleted and replaced by a new subparagraph (b) to read:

"(b) Elaborate recommendations to strengthen the promotion, protection and implementation of the human rights of migrants;"

41. The sponsors had shown great flexibility in the negotiations on the draft resolution and they hoped it would be adopted by consensus.

42. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Angola, Argentina and Ireland and the observer for Portugal had become sponsors of the draft resolution.

43. Explaining the administrative and programme budget implications of the draft resolution, she said that, under paragraph 3 as orally revised, the Commission would establish a working group consisting of five intergovernmental experts who would meet on two occasions, for five days each, prior to the Commission's fifty-fourth session. The costs of travel and per diem for those experts, which were estimated at US$ 56,000, could be met within existing provisions under section 21 of the 1996-1997 programme budget. Substantive servicing of the meetings would be provided by the Centre for Human Rights. The conference servicing requirements could be absorbed within section 26 (e) of the programme budget for 1996-1997.

44. Mr. ALI (Malaysia) said that, having participated in the consultations on the draft resolution, his delegation had been disappointed to see that its views had not been taken into account. It would have liked specific recognition to be given to various types of migrants and emphasis laid on the responsibilities of sending countries for repatriating their citizens if required and for preventing illegal migration. In addition, mention should have been made of the responsibility of migrants to observe the laws and regulations of their host country.

45. The draft decision on migrants and human rights, as orally revised, was adopted without a vote.

46. Ms. RUBIN (United States of America), explaining her delegation's position on the draft resolution on violence against women migrant workers (E/CN.4/1997/L.14), said that it had joined the consensus because the subject was one of great concern. Its understanding of paragraph 5, however, was that there was no obligation under international law for a country to provide health, legal and social services to migrant workers.

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 17) (continued) (E/CN.4/1997/L.31/Rev.1)

Draft resolution on the rights of persons belonging to national or ethnic, religious and linguistic minorities (E/CN.4/1997/L.31/Rev.1)

47. Mr. STROHAL (Austria), introducing the draft resolution, of which the delegations of Canada, India, Madagascar, the Republic of Korea, the United Kingdom, the United States of America and Uruguay and the observers for

Australia, Iceland, Liechtenstein and Lithuania had become sponsors, said that it encouraged further participation in the Working Group and had been revised in response to representations by interested delegations. There were two further changes to be made: the words "and for the consideration of possible solutions to problems involving minorities" at the end of paragraph 11 would be deleted; and the words ", and that it will also take note of the Commission's deliberations on this item" would be added at the end of paragraph 12.

48. Mr. QUAYES (Bangladesh), speaking in explanation of position, said that his delegation would not stand in the way of the consensus on the draft resolution, since it appreciated the efforts of the sponsors to take its views into account. He very much hoped, however, that, in accordance with the revision, the Working Group would indeed "take note of the Commission's deliberations", including the points raised by his delegation concerning adherence to the mandate under resolution 1995/24 and the premature call for extending that mandate.

49. Draft resolution E/CN.4/1997/L.31/Rev.1, as orally revised, was adopted.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 9) (continued) (E/CN.4/1997/3, 35-43 and Add.1, 44-47 and Add.1, 2, 3 and 4, and 119; E/CN.4/1997/NGO/10, 24 and 28; A/51/483 and Add.1 and 506 and Add.1)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 18) (continued) (E/CN.4/1997/84-86 and 88-90; E/CN.4/1997/NGO/33 and 63; A/51/453 and Add.1)

50. Ms. PINHEIRO PENNA de MELLO BARRETO (Brazil) said that Governments had a duty to protect the human rights of women and exercise due diligence to prevent violence against women, as well as to develop strategies to fulfil their international obligations effectively in that regard. Her delegation thus welcomed the report on her visit to Brazil of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1997/47/Add.2).

51. Her recommendations would serve as guidelines to the Government and the National Congress of Brazil in improving existing programmes and initiatives to combat violence against women. The report contained some

weaknesses, however; it should have contained statistical data with more precise indications of the population surveyed and information regarding the methodology used for obtaining data. Inaccuracies had also arisen through the Special Rapporteur's reliance on sources described as "general belief" or on the opinions of NGOs.

52. The Government was committed to establishing policies and legal structures to ensure greater observance of women's rights. The National Congress had before it a bill proposing amendments to the Criminal Code incorporating a clear definition of the crime of sexual harassment and a reclassification of rape, which would no longer be a "crime against morals and customs", but a "crime against the human person" and subject to stronger sanctions.

53. Women's participation in politics had improved. Since 1996, it had been mandatory for 15 per cent of the candidates for each party in an election to be women. Women federal deputies had launched a national campaign to encourage women to participate in the 1996 municipal elections, with the result that participation by women had increased from 3.5 per cent to 7 per cent.

54. In 1996, the Government had established a working group for the elimination of discrimination at work and, on 8 March 1997, the President had launched "Strategies for Equality", a national plan to implement the Platform for Action of the Fourth World Conference on Women. Some conservative sectors of society were still resistant to women's full participation in all spheres of society on an equal basis, but the Government sought a new concept of citizenship that recognized that human rights were essential for a modern democracy.

55. "Strategies for equality" contained guidelines on eight topics: the fight against women's poverty; the inclusion of subjects relating to gender equality in school curricula; health programmes for women; the fight against domestic and sexual violence; women's access to power; the strengthening of institutional mechanisms dedicated to promoting women's rights; implementation of measures on women's rights contained in the Brazilian National Plan on Human Rights; and adequate treatment of gender issues by the media.

56. Mr. ZACKHEOS (Observer for Cyprus) said that there was a compelling need to develop the international legal regime so as to ensure adequate coverage of all cases of displaced persons. In Cyprus, the primary concern was to extend the protection of the Convention relating to the Status of Refugees and its Protocol to the displaced persons who were refugees in their own country. The Geneva Conventions should also be fully applied.

57. Refugee problems should be solved by addressing their root causes, which were not only armed conflicts, foreign aggression, famine, poverty and ecological disasters, but also the lack of democratic institutions and values. A concerted effort had to be made. Early warning and strong preventive measures, including the active search for the peaceful settlement of disputes, should be taken. States should respect their commitments under human rights instruments and the Charter of the United Nations.

58. The international community should not accept displacement in cases of armed conflict and foreign aggression as a fait accompli but should insist on the return of individuals to their ancestral homes. Governments and armed groups should refrain from hindering international humanitarian operations.

59. In Cyprus, as a result of the 1974 Turkish invasion and consequent occupation of 37 per cent of the country's territory, one third of the population had been forcibly expelled and had sought refuge in the government-controlled area. An affirmation of the right of all displaced persons to return was a sine qua non for a fair and lasting settlement of the Cyprus problem.

60. The European Commission on Human Rights had found Turkey responsible for violations of the European Convention on Human Rights with regard to its refusal to allow refugees to return home. The European Court of Human Rights had also found Turkey guilty of violating the property rights of a Greek Cypriot refugee, thus confirming that refugees remained the legal owners of their properties in the occupied part of Cyprus. Turkey unfortunately refused to comply with those resolutions and decisions but insisted on maintaining and upgrading its 35,000-strong army in Cyprus and preventing the refugees from returning home.

61. His delegation did not seek acrimony or tension but was seriously interested in a peaceful, viable and functional settlement of the problem, with full guarantees of the human rights and fundamental freedoms of the people of Cyprus as a whole.

62. Mr. BARTOLO (Observer for Malta) said that it was crucial to establish an early-warning mechanism in situations where an impending crisis involving displacement was evident. People decided to leave their homeland for many reasons, not only civil and ethnic strife but also the hope of a better economic future. The latter reason was becoming increasingly common in the Mediterranean, where many tried to gain access to other countries in order to escape the problems of their own. The situation in Albania was a cause of particular concern. Cooperation between the Mediterranean States and the European Union on some aspects of such population pressures would be discussed at a ministerial conference hosted by Malta later in the month.

63. His Government supported all the efforts being made to find a lasting solution to the situation in Cyprus on the basis of the prompt implementation of the resolutions of the Security Council and the Commission.

64. With regard to the composition of the staff of the Centre for Human Rights (E/CN.4/1997/45), his delegation's concern was that the Centre should aim not only at greater efficiency but also at greater relevance. The Centre should continue to consult Member States in that regard and his delegation would have preferred closer involvement in the reform before the advice of professional accountants had been sought. Such reforms should also take into account those occurring in other parts of the United Nations.

65. In line with the suggestion in document E/CN.4/1997/40, his Government, which was firmly committed to the fundamental right of equality between men and women in both law and practice, had appointed a Parliamentary Secretary

for Women's Rights, in order to enhance women's position in society at the decision-making level. The Malta Human Rights Association had been set up in September 1996 and it would shortly, in collaboration with other local organizations, stage an international conference on migration and human rights in the Mediterranean. His Government, which had taken all the necessary steps at the national level to promote and protect human rights, believed that serious consideration should be given to extending membership of the Commission to all the Member States of the United Nations.

66. Ms. TIMBERLAKE (Joint United Nations Programme on HIV/AIDS (UNAIDS)) said that, in 1996, there had been over 3.1 million people infected with HIV. Marginalized groups faced increased vulnerability to the disease owing to a lack of full human rights protection. Discrimination needlessly increased the suffering of people living with HIV/AIDS. UNAIDS, which was sponsored by six agencies of the United Nations system, called for an expanded response to the problem and urged the Commission and other human rights bodies to intensify their commitment to a rights-based response to HIV/AIDS.

67. The Second International Consultation on HIV/AIDS and Human Rights had been held in September 1996. Its report (E/CN.4/1997/37) was an exciting human rights and public health tool that challenged the international community to go beyond a simplistic response. The guidelines it contained confirmed that the more human rights were protected, the less people were infected with HIV and the better they could cope with HIV/AIDS in their lives. Since public health and human rights were complementary, public health concerns could not be used as an excuse to limit human rights in the context of HIV/AIDS. The rights to health, information, education, employment, social welfare and public participation were critical to reduce vulnerability to HIV infection and the Commission should continue to articulate the nature of those rights and States' obligations with respect to them.

68. The guidelines also recommended specific national measures to protect human rights and health, which could be summed up in three interconnected approaches: improving government response in terms of multisectoral responsibility; widespread legal reform focusing on anti-discrimination, public health protection and improvement of the status of women, children and marginalized groups; and support for increased private-sector and community participation.

69. Formal and customary law should be reformed to protect women and girls from sexual violence both inside and outside marriage and to equalize their status in terms of property, marital and custody laws and access to employment, health care, social support and political participation. Children should be protected from sexual violence and exploitation and should be given meaningful access to HIV/AIDS prevention information and means. States should consider changing discriminatory legislation that imposed penalties for certain sexual activities between consenting adults, and should take steps to reduce HIV transmission among injecting drug users.

70. UNAIDS was engaged in a number of projects concerning cooperation with United Nations treaty bodies and thematic and country mechanisms. The Commission and Subcommission were essential partners in efforts to eliminate the suffering in the pandemic that could be attributed to human rights abuse.

71. Mrs. EL HAJJAJI (Observer for the Libyan Arab Jamahiriya) said that women's rights had been marginalized in the United Nations system for the last 50 years. The Vienna Plan of Action had marked the beginning of the international community's recognition that women's rights were an integral part of universal human rights; subsequently, the Beijing Platform for Action had called for the elimination of obstacles to women's development.

72. Her country was part of the Arab civilization which had contributed to the enjoyment of human rights. The Koran called for equality among all inhabitants of the globe, regardless of sex, religion, language or ethnic origin. Libyan legislation guaranteed equality of political, economic and social rights between men and women; the only differentiation between the sexes was in terms of their respective duties, bearing in mind their biological differences.

73. The Libyan People's Assembly had adopted a document on women's rights which affirmed that discrimination against women was unjustifiable and authorized women to share political power and hold posts of authority. It also affirmed women's freedom of movement, right to education and employment and right to defend their country. Marriage to a non-Libyan did not change any of a Libyan woman's rights or duties; if a woman's former husband remarried, none of her acquired legal rights were jeopardized. In cases of adultery, men and women were treated equally under the law. Moreover, any action against women's rights was considered an offence, and women could go to court to defend their rights.

74. Mr. LAKATOS (Observer for Hungary) said that internal conflicts resulted in fewer refugees and more internally displaced persons. Owing to the lack of clear institutional responsibility for the internally displaced, international responses were highly uneven; in the Great Lakes region of Africa, they had focused much more on the refugee crisis than on internal displacement. Although the Office of the United Nations High Commissioner for Refugees (UNHCR) was best equipped to deal with the problem, the humanitarian, assistance, protection, reintegration and development needs of the internally displaced required a collaborative approach, inter alia on the part of human rights organizations.

75. Measures to protect and assist the internally displaced were important for preventing refugee outflows. Governments must be held accountable for ensuring human rights for everyone under their jurisdiction, without discrimination, and for bringing human rights violators to justice. The international community should uphold the principle that human rights were not the internal affair of any State. In situations of mass displacement, most resources and attention had been given to emergency responses; however, prevention was more cost-effective in both monetary and human terms.

76. Effective early warning depended on the systematic collection and analysis of observations from potential refugee-producing areas, but no United Nations office systematically collected information on internally displaced persons worldwide. Human rights monitoring, for both protective and early-warning purposes, was also valuable for prevention. The protection

role of human rights monitors in the field should cover not only the return process, but also situations in refugee camps. He welcomed the UNHCR reform aimed at delegating greater authority to field operations.

77. Long-term solutions to refugee crises depended on the political will and comprehensive responses of the States concerned and of the international community. An important lesson of recent crises was that progress in the international protection of minorities was a means of making human rights even more relevant in terms of securing peace and stability.

78. Mr. BOREL (Observer for the International Committee of the Red Cross (ICRC)) said that human rights and international humanitarian law were more relevant than ever in the current climate of violence, war and repression. His delegation urged all hostile forces to apply the principles and rules of humanitarian law, under which civilian populations enjoyed wide immunity even in internal armed conflicts, and population displacements were formally prohibited.

79. Even those who protected and assisted civilian populations had become targets of violence and he urged that they be respected. Under humanitarian law, victims had a right to assistance but, all too often access to victims was either not available in acceptable security conditions or refused altogether. The international community must establish appropriate humanitarian conditions in which the various organizations could carry out their activities in a coordinated and complementary way.

80. ICRC was pleased to be associated with the formulation of guiding principles that reaffirmed and clarified the rules protecting internally displaced persons. The problem was not so much, however, a lack of rules as the failure to implement them effectively.

81. Anti-personnel landmines continued to kill and maim thousands of innocent civilians annually, especially refugees and displaced persons. Landmines were not only a cause of displacement, but also an obstacle to the return of populations once conflicts had ended. The outcome of the 1996 Review Conference of the States Parties to the 1980 Convention on certain conventional weapons had been disappointing. A total ban on anti-personnel landmines was the only real solution, and all States should support the initiative of the Canadian Government to conclude an agreement to that effect by the end of 1997.

82. Mass exoduses were usually triggered by violations of humanitarian law committed with impunity. The establishment of ad hoc international criminal tribunals was a step in the right direction, but not in itself sufficient. The future international criminal court must have competence to judge those suspected not only of gross violations of the Geneva Conventions and Protocols but also of other war crimes. However, every State should adopt legislation to bring such persons to justice, since the international criminal court could not replace national jurisdictions.

83. Mrs. FALARDEAU-RAMSAY (Canada), speaking as head of the Canadian Human Rights Commission, said that national institutions had the unique role of ensuring that the human rights ideals promoted in the Commission were put into

effect domestically. She urged States which had not yet done so to establish national institutions as proof of their adherence to the standards they themselves had created.

84. While there was no single model for national institutions, there were internationally recognized standards of competence, responsibility, independence and composition that should act as a yardstick for determining what kind of institution to establish.

85. The Coordinating Committee of National Institutions, and the institutions themselves, would need the continued support of the Commission and the Centre for Human Rights if their efforts were to bear fruit. Funds must be found to support their activities both internationally and regionally, and the Centre's Advisory Services and Technical Assistance and Information Branch would have to make greater use of the expertise of national institutions in programmes to strengthen them.

86. National institutions must be given a distinct status, independent of the delegations of their States, to enable them to deal in their own right with the Commission and other United Nations human rights bodies.

87. Mr. SIK (Observer for the Democratic People's Republic of Korea) said that the Japanese Government and people continued to deny their crime of having forced thousands of Korean and other Asian women to serve as "comfort women" for the Japanese army in wartime. The Japanese Government should assume legal responsibility for violating international laws, disclose all relevant materials, bring the criminals to justice and make apologies and reparations.

88. However, Japan openly challenged the international community by ignoring its resolutions on the subject and pursuing an outdated way of thinking. For example, a government spokesman had recently claimed that the former "comfort women" had been prostitutes who had volunteered their services. Moreover, the issue was insufficiently dealt with in Japanese school textbooks.

89. Despite the seriousness of the human rights violations which Japan had committed as a State policy, the Japanese authorities tried to shirk their responsibility and placate their critics by merely offering a few former "comfort women" a paltry sum of money and a superficial "letter of apology".

90. To accept Japan as a permanent member of the Security Council solely on the basis of its capacity to make financial contributions would be nothing but a mockery of the United Nations. The Commission should strongly urge Japan to honour its legal and moral duty to make prompt reparation for its past crimes.

91. Mr. HÖYNCK (Germany), speaking in exercise of the right of reply, said that his Government condemned the abhorrent crime referred to by the observer for Turkey, in which three Turkish citizens had been killed and two others seriously injured in the town of Krefeld. Although the German police were thoroughly investigating the incident, the background was still unclear; no evidence of xenophobic or racist motives had come to light.

92. The German authorities investigated every case of xenophobic violence very seriously. Suspects of such crimes had been prosecuted uncompromisingly and, if convicted, had received the harshest possible sentences. The resolute action of the authorities had considerably reduced the number of xenophobic or racist incidents in Germany since 1993. His Government would continue to pursue and strengthen its efforts to prevent and punish such crimes, and would willingly cooperate bilaterally, regionally and internationally to combat racism.

The meeting rose at 6.10 p.m.